

REMARKS

The August 21, 2009 Office Action and the December 8, 2009 Advisory Action have been reviewed and the application has been amended. The pending application is believed to be in condition for allowance.

In the August 21, 2009 Action, the Examiner noted allowable subject matter. Claims 99-101, 114 and 117 are allowed; claims 121 and 122 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner rejected claims 98, 99 and 124 under 35 USC § 112, second paragraph, as being indefinite; rejected claim 49 under 35 USC § 102(b) as being anticipated by Bright (U.S. Patent No. 3,718,524); rejected claims 51, 88, 89, 92, 94, 95, 96, 119 and 120 under 35 USC § 102(b) as being anticipated by Fay (U.S. Patent No. 3,205,837); rejected claims 98, 113, 116 and 123-127 under 35 USC § 103(a) as being obvious over Fay ('837) in view of Fay (U.S. Patent No. 4,957,425).

The Examiner also noted that claims 1 and 69-82 are withdrawn from consideration. The Examiner returned copies of Forms PTO/SB/08a indicating consideration of the references submitted in the Information Disclosure Statements. The status of claim 69 is clarified as being "withdrawn."

With respect to the August 21, 2009 Action, the Examiner is thanked for noting allowable subject matter. Allowable claim 121 is written in independent form by adding the recitals of claims 88 (prior to the present amendment) and 113 from which claim 121 depends. Since claim 122 depends from claim 121, it is unnecessary to amend claim 122. Reconsideration and withdrawal of the objections to claims 121 and 122 are respectfully requested.

Claims 98, 99 and 124 are amended to eliminate improper use of 35 USC § 112, ¶6.

Claims 98 and 99 are amended to recite “an associated drive” rather than the recital “associated drive means.” Claim 124 is amended to eliminate “as a result of pressure means.”

Reconsideration and withdrawal of the objection and rejection under 35 USC § 112, ¶6 are respectfully requested.

In the Advisory Action, the Examiner continued to reject claim 88 over Fay '837. The Examiner also maintained rejections of claims 51 and 92 since they are dependent on rejected claim 88. However, the Examiner found the arguments as to claims 49, 94 and 95 persuasive. Because claim 88 remains rejected, the Examiner objected to claims 49, 94 and 95 as dependent upon a rejected base claim. In addition, issues with respect to claims 69, 98, 99 and 24 have been resolved and the objections and rejections under 35 USC § 112 have been withdrawn.

Applicants respectfully traverse the prior art rejections. Fay '837 discloses an apparatus for producing edible dough products, which are formed in die cavities. According to the broad concept (col. 1, l.32 et seq.) improved means for preventing adhesion or sticking of the dough product to the die and for expeditious ejection of the dough product from the die cavity are provided. In the next paragraphs these means are explained. The die has a porous wall defining a die cavity. Means for introducing dough into the die cavity are provided, as well as means for passing air through the porous wall of the die cavity upon introduction of the dough into the die cavity. In this way a film of air is created between the dough product and the die for preventing adhesion of the dough product to the die. Another feature is the provision of means for passing air under higher pressure through the porous wall of the die to eject the formed and non-adhering product from the die cavity. The porous wall dies may be provided about the periphery of a rotary die roll.

In the description of the drawings, in particular Fig. 1, the machine comprises a rotary die roll 1 having die cavities 2 and a feed roll 4 having longitudinal grooves 5 in its periphery. As described in col. 2, l. 38, this feed roll performs the function of driving the die roll 1. Dough is filled into the die cavities 2 from a hopper 30. A scraper 36 is provided in order to remove excess dough or dough protruding from the die cavities.

Upon comparison of the present invention as presently defined in claim 88 it is apparent that

- the prior art device is solely intended for dough products, such as cookies, or similar products. Shaping a meat mass into three-dimensional products is not disclosed.
- the hopper 30 and feed roll 4, although filing the die cavities, do not maintain the cavities in a closed condition once the cavities have been filled, as is required in the device according to the invention. When preparing meat products, such maintenance is obligatory according to the invention. Dough and meat require different conditions and consequently a device having different technical features.

In the Advisory Action, the Examiner indicates that claim 88 is still anticipated by Fay '837, as the feed roll disclosed in Fay '837 can be regarded as closing means "that would close and maintain the cavity in a closed condition until the later point when it is opened for release."

The disclosure of Fay '837 differs significantly from the invention according to now amended claim 88. In particular, the feed roll disclosed in Fay '837 which is regarded as closing means, is not positioned stationary with respect to the mould cavity between the mass feed position and a release position. Instead, the feed roll rotates. Upon comparison of the present invention as presently claimed in amended claim 88 it is apparent in Fay '837 that the hopper 30 and feed roll 4 are provided for filling the die cavities, whereupon the feed roll 4 temporarily closes a cavity, while the claimed stationary closing means maintains the cavity in a closed condition until the later point when it is opened for release.

New independent claims 128 and 129 (similar to, but not identical to, amended claim 88) are added. These claims further distinguish the present invention over Fay '837. A new dependent claim 130, depending from claim 120 is also added.

The disclosure of Fay '837 differs significantly from the invention according to new claim 129. In particular, the mass feed hopper disclosed in Fay '837 does not comprise a mass feed opening which is arranged in a closing surface at a mass feed position, for feeding the said mass to the mould cavities, the closing surface closing a mould cavity and maintaining the mould cavity in a closed condition. Instead, a separate mass feed hopper for feeding the said mass to the mould cavities and a rotating feed roll instantaneously closing off the mould cavities are provided. Upon comparison of the present invention as presently claimed in new claim 129 it is apparent in Fay '837 that the hopper 30 and feed roll 4 are provided for filling the die cavities, whereupon the feed roll 4 temporarily closes a cavity, while the claimed stationary closing surface maintains the cavity in a closed condition until the later point when it is opened for release.

The disclosure of Fay '837 differs significantly from the invention according to new claim 128. In particular, the feed roll disclosed in Fay '837 which is regarded as closing means, does not comprise a stationary closing surface for closing a mould cavity and maintaining the mould cavity in a closed condition after the mould cavity has been filled. Instead, the feed roll disclosed in Fay '837 rotates. In particular, according to the present invention, a "filling shoe" is positioned adjacent the mould surface, which shoe comprises a closing surface with a mass feed opening. Fay '837 discloses schematically a stationary mass feed means 30, and a rotatable feed roll that occasionally closes the mould surface.

Claims 49, 51 and 92 were amended to depend from claim 88 in the Amendment filed November 20, 2009. With respect to the dependent claims, it is asserted that Fay '837 discloses

the use of pressurized air, both during filling and during ejection of shaped products. However, reduced-pressure means for evacuating air from the die cavities (see claim 94) are not disclosed. As explained in paragraph [0070] of the present application as published, the reduced-pressure means generate a reduced pressure during filling and air is sucked out through the openings (pores). The reduced-pressure means do not blow air into a cavity, but remove air in order to avoid air inclusions in the shaped products. As a consequence of the absence of reduced-pressure means in Fay '837 there is also no connecting pressure that can be selectively coupled to the reduced-pressure means and to the excess-pressure means (claim 95).

The claims depending from the independent claims are also patentable over the applied references.

The references applied by the Examiner do not anticipate or render obvious the invention claimed in the now-pending claims. Reconsideration and withdrawal of the prior art rejections are respectfully requested.

As all grounds of rejection have been addressed and overcome, entry of this Amendment and issuance of a Notice of Allowance of the claims, as now presented, are respectfully solicited.

In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (000023.0122). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, Applicants hereby petition under 37 C.F.R. 1.136(a) for an extension of time for as many months as are required to render this submission timely.

Any fees due are authorized above.

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Respectfully submitted,

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